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Sent: Wed 3/9/2016 5:50:05 PM
Subject: FW: EPA Daily News Briefing for Wednesday, March 9, 2016
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All:

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Danny, can you please work with OEI on the IT issues? Thanks.

Roxanne Smith

Principal Deputy Associate Administrator

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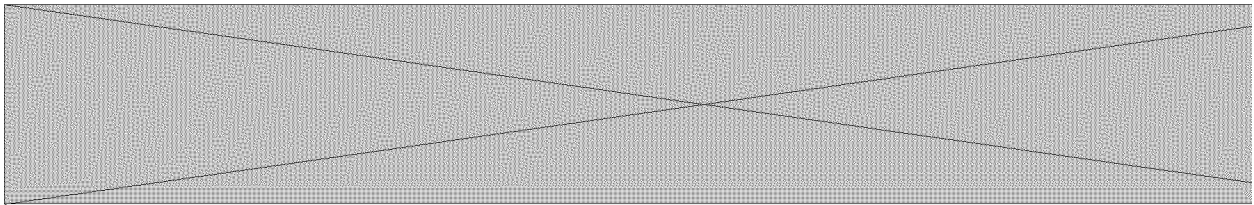
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TO: ADMINISTRATOR AND SENIOR EXECUTIVES

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Administrator

McCarthy: Climate Change Argument “All About Moving A Market.”

[TransWorld Business](#) (3/8, Bradstreet) interviewed Administrator McCarthy at the 2016 SIA Snow Show on efforts to protect nature. McCarthy said in part, “EPA can speak to the science and we can challenge things from a regulatory perspective, but...it’s all about moving a market. It’s all about recognizing that climate change is about protecting the future of our kids.”

Inhofe Questions Whether Meiburg Is Allowed To Serve Under Federal Vacancies Reform Act.

[Greenwire](#) (3/9, Bogardus, Cahlink) reports Senate Environment and Public Works Chairman Jim Inhofe

has written to Administrator McCarthy saying it is “unclear” if Stan Meiburg is allowed to serve as acting deputy administrator, citing the Federal Vacancies Reform Act and a recent appeals court decision. Inhofe notes that the vacancies law restricts certain government officials from serving in jobs on an acting basis that they have been nominated to take on permanently.” Referencing Beth Cobert, acting director of the Office of Personnel Management, Greenwire adds that, “as with Cobert, the White House believes Meiburg is acting within the law serving as deputy administrator of EPA.”

News Across Programs

Senate Nearing Agreement On Flint Aid.

Politico (3/8, Kim, Goode) reports senators said Tuesday that “they were on the cusp of a deal” to provide aid to Flint. While there were “some reservations on the GOP side that the lead crisis was primarily a state and local issue, and that an aid package could set a dangerous precedent, the vast majority of Republicans are willing to move ahead with the measure.” Sen. Mike Lee “signaled on Tuesday that he may relinquish his hold” on the aid measure. The Hill (3/8, Cama) reports Sen. David Vitter has removed his hold.

Genevieve Wood of the Daily Signal (3/8) writes that Lee had been concerned about the precedent of federal aid going to Flint when there have been similar crises in Crystal City, Texas and elsewhere.

Latest Flint Lawsuit Rooted In Cancer Fears. USA Today (3/8, Baldas) reports that a new lawsuit over the Flint water crisis “is seeking damages on behalf of residents who fear they might get cancer in the future because of their exposure to the city’s toxic water.” While plaintiffs “have not been diagnosed with cancer, the lawsuit claims ‘there is a reasonable certainty that...cancers will develop at some future date,’ thus entitling them to compensation.”

The Christian Science Monitor (3/8, Banchiri) reports the lawsuit cites the EPA Lead and Copper Rule and the Safe Drinking Water Act. The federal suit, “which is seeking class-action status, alleges that tens of thousands of residents have suffered physical and economic injuries and damages as a result of exposure to lead.” Newsweek (3/8, Gorman) reports on its website that the plaintiffs “allege current and former authorities failed to take action and downplayed the levels of water contamination while residents suffered.”

Snyder Seeks \$1.2 Million In Taxpayer Funds For Legal Costs. The AP (3/8) reports the office of Gov. Rick Snyder said Tuesday that the state’s “outside legal fees related to the ongoing Flint lead-contaminated water crisis could climb as high as \$2.7 million.” The Detroit News (3/8, Oosting) reports Snyder is seeking \$1.2 million in taxpayer funds for the costs, while Attorney General Bill Schuette “is seeking at least \$1.5 million for his probe.” MLive (MI) (3/8, Devereaux) reports Michigan Democratic Party Chair Brandon Dillon said in a statement, “It’s beyond outrageous that Snyder wants to take \$1.2 million from Michigan taxpayers to pay for defense attorneys over his involvement in the poisoning of Flint’s water.”

Fitch Ratings Retracts Estimate On Cost Of Replacing US Lead Pipes. The Detroit Free Press (3/8, Dolan) reports Fitch Ratings has “corrected its cost estimate for replacing the nation’s lead service lines, saying the amount would be ‘a few billion to \$50 billion.’” Fitch said, “We believe the capital costs to replace these lines could exceed \$275 billion. The EPA’s latest survey estimated the entire sector needs \$385 billion in water infrastructure improvements through 2030, and this estimate includes the costs to only partially replace lead pipes.”

Five Michigan TV Stations To Air Flint Telethon. The Detroit Free Press (3/8, Riley) reports that five Michigan television stations will broadcast a daylong telethon called “Flint Water Crisis: 4 Our Families” to “raise funds for the Community Foundation of Greater Flint’s Flint Child Health and

Development Fund" on March 15.

Source: Justice Department Subpoenas VW Under Banking Law.

Reuters (3/8) reports that the Justice Department has subpoenaed Volkswagen AG under the Financial Institutions Reform, Recovery and Enforcement Act, according to an unnamed source. The law, which has previously been used to subpoena auto finance companies, allows the government to investigate alleged fraud over the previous ten years.

CARB May Allow Partial VW Fix. Reuters (3/8, Carroll) reports that the California Air Resources Board is considering allowing owners to continue operating partially fixed VW diesel cars because the company may not be able to offer a complete fix, according to a Tuesday legislative hearing. CARB enforcement division head Todd Sax said, "Our goal has been to fix the vehicles and return them to their certified configuration as expeditiously as possible. Unfortunately, this may not be possible." He added that the company would have to pay for further damage caused if this option is chosen. According to Reuters, Sax said the agency is hopeful that an agreement will be reached but is willing to litigate if the parties cannot reach a settlement.

German Prosecutors Widen VW Probe. Prosecutors in Germany have expanded their investigation of Volkswagen's diesel emissions cheating activities from six employees to 17, Reuters (3/8, Taylor) reports. Prosecutor Klaus Ziehe said Tuesday, "This is part of the diesel investigation, the number of suspects has risen, although none are from the management board." According to the New York Times (3/8, Ewing), Ziehe added that prosecutors are investigating individuals that were aware of the cheating but did not act, as well as those responsible for the unlawful programming. He said the team is "looking at all levels, including the management board level." Names of the suspects have not been disclosed, as required by German privacy rules.

Regarding last week's civil filing in a shareholder suit, in which VW claimed that former CEO Martin Winterkorn was informed about the cheats as early as May of 2014, the Wall Street Journal (3/8, Boston) reports that Ziehe said, "We read the newspapers just like everyone else and are aware of Volkswagen's filing in the civil court. The question is whether there is probable cause to suspect someone knew about the defeat device or cheating software and let it continue instead of taking action. That's why it is certainly relevant to know who knew what when." He stressed, though, that the ongoing investigation has not uncovered evidence contradicting VW's claim that the scandal was perpetrated by a few engineers and without executives' knowledge.

French Prosecutors Announce Formal Investigation Into VW's Suspected Fraud. Reuters (3/8, Bon) reports that the Paris prosecutor's office announced Tuesday that France has launched a formal investigation of VW on suspicions of "aggravated fraud" in relation to the scandal. The office began a preliminary investigation in October, in which it seized material from the company's offices in the country.

Environmental Groups Call On McConnell, Reid To Act On Obama SCOTUS Nominee.

The Washington Post (3/8, Ho) reports 17 major environmental groups including Greenpeace USA, the Natural Resources Defense Council, and the Sierra Club are calling on Senate Majority Leader McConnell and Minority Leader Reid "to hold prompt confirmation hearings and a vote on President Obama's nominee to the Supreme Court." In a "brief but pointed letter" to the leaders, the groups "argue that Obama has the right to fill Supreme Court vacancies during the entirety of his term, and that it is the Senate's duty to move the process forward."

Legal Scholars Say GOP President Unlikely To Successfully Abolish EPA.

Bloomberg BNA (3/8) writes that legal scholars warn against accepting "any promises from Republican

presidential candidates to abolish federal entities such as the Environmental Protection Agency and Energy Department,” saying that “eradicating federal agencies would require congressional cooperation and, even if an agency were dissolved, its statutory mandates would linger on for other parts of the federal government to pick up.”

Air

California State Senate Leader To Resist Loosening Of Air Quality Rules.

The Los Angeles Times (3/8, Barboza) reports California State Senate President Pro Tem Kevin de León will push to reverse efforts by the South Coast Air Quality Management District board “to adopt pollution rules friendlier to industry, saying swift action is needed to prevent a rollback of environmental gains.” De León said he will introduce legislation to add three new members to the board: “one public health expert and two environmental justice members, to represent communities suffering from pollution.”

Bill To Keep Race Cars Legal Under Clean Air Act Discussed.

Under the headline, “This Bill Could Save Your Race Car From The EPA,” Jalopnik (3/8) reports on H.R. 4175, which SEMA says would “keep conversions of road cars into race cars legal without running afoul of the Clean Air Act.” Jalopnik adds that “the EPA is much more likely to go after the companies that make non-street-legal parts for competition use instead of seizing your questionably swapped, smoke-belching crapcan racer directly. But H.R. 4175, dubbed the Recognizing the Protection of Motorsports Act of 2016 (or RPM Act for short), seeks to ensure that road cars modified for competition use and competition use only will remain legal, despite the EPA’s efforts to clarify the wording of the Clean Air Act.”

Climate Change

Obama, Trudeau Expected To Commit To Significant Reduction In Methane Emissions.

The Globe and Mail (CAN) (3/8, McCarthy) reports that President Obama and Canadian Prime Minister Justin Trudeau “are expected to commit their two countries to slash methane emissions from the oil and gas industry” by at least 40% when they meet. US climate envoy Todd Stern confirmed Tuesday “that the two leaders will aim for an agreement on several climate initiatives, including stricter standards for heavy-duty vehicles, greater cross-border trade in clean electricity and efforts to reduce the release of methane.”

Bloomberg BNA (3/8, Scott) says “environmental groups are hoping to get a big climate change announcement” during the visit, “one they hope would ban future Arctic oil and gas drilling, accelerate regulatory efforts to cut methane from the oil and gas sector, and commit the U.S. and Canada to new clean energy cooperation.”

Obama Administration Makes First Payment Into UN Climate Change Fund.

The Hill (3/8, Cama) reports that the Obama Administration “has made the first of its promised payments to the United Nations’ controversial climate change fund.” An official with the State Department “said that the United States made the \$500 million payment on Monday to the South Korea-based Green Climate Fund.” It is “the first of a series of payments President Obama has pledged.” The State official said, “With this announcement, which comes less than three months after the historic Paris climate agreement, the United States continues to demonstrate leadership in the international climate arena.”

Lower 48 States See Warmest Winter On Record.

The Hill (3/8, Cama) reports National Oceanic and Atmospheric Administration researchers said yesterday that the Lower 48 states had the warmest winter on record. From December through February temperatures “averaged 36.8 degrees Fahrenheit on the lower 48’s surfaces.” The agency “attributed the record mainly to the extraordinarily strong El Niño pattern in the Pacific Ocean this year, as well as the exceptionally warm December.”

The AP (3/8, Borenstein) reports NOAA climate scientist Jake Crouch “said a super-hot December pushed the winter to record territory. The fall of 2015 also was a US record.”

Majority Of Americans Represented In Washington By Climate Change Deniers.

Think Progress (3/8, Koronowski) reports new Center for American Progress Action Fund research finds that “more than six in ten Americans are represented by someone in Congress who denies the reality of climate change.” There are “182 climate deniers in the 114th Congress in 2016 – 144 in the House and 38 in the Senate.” Between them, they represent nearly 203 million Americans.

Hansen Lawsuit Argues That Federal Fossil Fuel Policies Are Unconstitutional.

James Hansen of the Department of Earth and Environmental Sciences at Columbia University writes in the Boston Globe (3/9) that today, a federal judge in US District Court in Oregon “will consider whether a constitutional challenge to federal actions that underwrite fossil fuel emissions may proceed.” The suit, brought by Hansen and other plaintiffs, “alleges that by permitting, authorizing, and subsidizing the exploitation, production, transport, and burning of fossil fuels, our government has caused or substantially contributed to the present emergency in which the very viability of a hospitable climate system is at stake.” The suit argues this infringes “upon the fundamental guarantees of the Fifth Amendment, including the rights to life, liberty, property, and equal protection of the law.”

Study: Governments Should Try Limiting Climate Change’s Impact On African Farmers.

The Christian Science Monitor (3/8) reports that the “sub-Saharan Africa’s agricultural landscape will experience notable transformation from climate change as early as 2025,” according to researchers with the International Center for Tropical Agriculture. In some regions, climate change has already “impacted the land to the point of no return and the area is no longer suitable for current staple crops.” Thus, say the study authors, “governments need to start planning now” so “farmers across sub-Saharan Africa won’t lose their jobs or their food source.”

Energy

Future Of Ethanol Remains Uncertain.

The Houston Chronicle (3/8, Osborne) reports that “a decade after Congress voted to expand ethanol production,” the program is surrounded by “uncertainty.” The renewable fuel standard “is set to expire in 2022,” and “at that point the program would be taken over” by the EPA, “raising the specter of some mandates being frozen or eliminated.” Under the schedule set out by Congress in 2007, “so-called cellulosic ethanol...was supposed to make up 19 percent of the biofuels supply this year.” But data from the EPA show “that less than 1 percent of the more than 14 billion gallons of fuel produced under the fuel standard last year came from cellulosic ethanol.”

EPA Allocating \$26 Million For Clean Diesel Upgrades.

Fleets & Fuels (3/8) reports the EPA “is anteing \$26 million in the latest round of its Clean Diesel Funding Assistance Program.” The goal of the program “is to help operators pay to repower or retrofit their legacy trucks, or deploy new ones with engines meeting current emissions standards.”

Miami-Dade Commission Discusses Turkey Point Plant.

WTVJ-TV Miami (3/8, 11:12 a.m. EST) reported, “Right now, the Miami-Dade commission discussing the Turkey Point Nuclear Plant on the Biscayne Bay. We have been reporting the latest developments, including the report testing for levels of chemicals being found in the bay that are usually associated with nuclear reactors. The levels higher than what is naturally occurring but still below the minimum set by the EPA. The commission hearing this issue right as we speak.” WPLG-TV Miami (3/8, 6:02 p.m. EST) ran a similar story.

Groups Ask Obama To Abandon Plan To Delay Federal Oil Revenue Payments To Gulf States.

The Hill (3/8, Henry) reported that more than 330 environmental and conservation organizations asked President Obama on Tuesday to back away from a proposal in the 2017 budget to delay federal oil revenue payments to Alabama, Louisiana, Mississippi and Texas. The funding, which would give 37.5% of federal oil revenue from drilling operations on the Gulf Coast to the states, “is seen as especially important for coastal and wetland restoration.”

Faison: “Conservative Clean Energy” Should Be “Priority” For GOP.

Bloomberg Politics (3/8, Dlouhy) reports activist Jay Faison “says Republicans’ political survival depends on embracing clean energy – whether a candidate believes in climate change or not – and he’s backing that up with tens of millions of dollars.” Faison, who is opening a new Washington office for his environmental foundation ClearPath, said Tuesday, “Our mission is to make conservative clean energy a priority for the GOP.” Faison added, “It may take some time, but absolutely, we can do it. It’s critical for the longevity of the Republican party.”

The Hill (3/8, Henry) reports that ClearPath’s policy agenda “centers on more traditional energy sources” and opposes new EPA power sector pollution rules. ClearPath’s “four planks” include using cleaner-burning coal and natural gas, as well as expanding nuclear and hydroelectric power. Faison has said he is skeptical about the long-term costs of solar and wind power. McClatchy (3/8, Gordon) reports that Faison has “recalibrated his campaign to focus on a ‘conservative clean-energy policy agenda’ that nonetheless is aimed at fighting global warming by reducing greenhouse gas emissions.”

Analysis: Sanders, Clinton Show “Significant Difference” On Fracking Stance.

The Washington Post (3/8, Mooney) reported on the “significant difference” between Hillary Clinton and Sen. Bernie Sanders when it comes to their stance on fracking. At Sunday night’s debate in Flint, Michigan, Sanders said, “I do not support fracking. ... I talk to scientists who tell me that fracking is doing terrible things to water systems all over this country. We have gotta be bold now. We gotta transform our energy system to energy efficiency and sustainable energy.” Clinton’s view “was more nuanced,” and while she said she doesn’t support fracking in several situations, “she came far short of opposing it outright.”

WPost: Sanders’ Stance On Fracking Is “Utterly Unrealistic.” In an editorial, the Washington Post (3/8) says Sanders’ statements on fracking during Sunday night’s debate “were more firmly grounded in ideology than reality.” Calling Sanders’ position “utterly unrealistic,” the Post argues he is claiming “without sufficient evidence” that “fracking is so intrinsically dangerous that the government must ban it rather than regulate it.”

Hazardous Waste

Scientists Express Concerns Over CRE Superbug Getting Into Sewage Treatment Plants.

CBS News (3/8, Kraft) reports on its website that “some scientists are raising alarms” about what happens when the CRE superbug “gets into sewage treatment plants.” CRE, which is resistant to traditional antibiotics, has been found to have “a welcoming environment in which to proliferate in sewage plants.” Last fall, EPA scientists “detected the bacteria in a sewage treatment plant in Southern California, thought to have been brought there with the millions of gallons of raw sewage from area hospitals.” Southern California Public Radio (3/8) reports on its website that “regional wastewater managers say it’s unlikely any CRE coming from hospitals through sewage would pose a public health problem.”

State Officials Act To Halt Illegal Radioactive Waste Shipment Into Kentucky.

The Louisville (KY) Courier-Journal (3/8, Bruggers) reports that Kentucky officials are beginning to take enforcement actions in the investigation of radioactive oil and gas drilling wastes brought illegally into the state and dumped at two landfills. State health officials with the Kentucky Energy and Environment Cabinet ordered Advanced TENORM Services, the “company they say hauled the fracking waste into Kentucky,” to “stop or face \$100,000 per incident fines and potential criminal charges.” The officials also sent violation notices to the two landfills claiming the landfill operators in Greenup and Estill counties “failed to accurately characterize the waste for what it was.”

Rules/Regulations/Policy

Gold King Mine Investigators Ordered Not To Review EPA Actions.

The Daily Caller (3/8, Barton) reports that internal emails indicate that Interior Department investigators were ordered to avoid aspects of their investigation related to the EPA’s conduct related to spilling 3 million gallons of mine waste into drinking water. According to BOR Technical Service Director Thomas Luebke, “It has been our understanding from the beginning that we were being hired to perform a technical evaluation of the causes,” and inquiry into the EPA’s handling of the mine was to be conducted “by others more suitable to that undertaking.” Asked by the Army Corps of Engineers’ Richard Olsen, who peer reviewed the resulting report, who issued the order, Luebke failed to provide the information.

West Virginia Environmental Protection Secretary Slams EPA Regulations.

The Charleston (WV) Gazette-Mail (3/8, Ward) reports West Virginia Secretary of Environmental Protection Randy Huffman says the EPA is “wrongly pressuring West Virginia environmental officials on air quality and water pollution issues in an effort to ‘totally remake the American regulatory landscape.’” In a letter to the Senate Environment and Public Works Committee, Huffman criticized “what he called a ‘continual parade of new regulatory demands’ that are over-burdening state agencies that ‘are already resource-constrained in carrying out existing mandates.’” Huffman is one of the state officials who will testify before the committee today on the relationship between state agencies and the EPA.

National Mining Association Head Defends Analysis On EPA Rule.

In the Indianapolis Star (3/8), Hal Quinn, president and CEO, National Mining Association, responds to a recent IndyStar “Truth Squad” analysis that discounts studies broadcast by Americans for Prosperity in support of Gov. Mike Pence’s decision to reject the EPA’s plan restricting gas emissions from power plants. Quinn points out that the Truth Squad elects to “discount studies by our organization and others showing the high costs of this rule,” but touts the EPA’s “own low-cost estimates,” even though the

agency's previous predictions on the power plant rule have been inadequate.

EPA IG Announces Fieldwork Into Compliance With Federal Information Security Modernization Act.

E&E Publishing (3/9, Bogardus) reports on a Friday notice in which "the EPA inspector general said it would begin fieldwork on the agency's compliance with the Federal Information Security Modernization Act. The IG's audit is required under law and was included in the watchdog's annual plan."

Toxics/TSCA

Oregon To Release Soil Test Results From Portland Factories This Week.

Reuters (3/8, Sebens) reports that the Oregon Health Authority this week intends to release US Forest Service soil test results from the neighborhoods near two glass factories in Portland, Oregon that are facing a class action lawsuit for emissions of arsenic and cadmium that local residents fear have polluted their communities.

Water

Critics Seek EPA Intervention Into Florida Power & Light Canal Issues.

The Miami Herald (3/8, Staletovich) reports critics said Tuesday that Florida Power & Light's "troubled cooling canals, blamed for contaminating groundwater and now found to be leaking into Biscayne Bay, are likely violating local water laws and federal operating permits." Democratic state Rep. Jose Javier Rodriguez and others "also demanded the U.S. Environmental Protection Agency intervene." Rodriguez said, "This is the last straw. Evidence of radioactive material at high density in Biscayne Bay? How much more do we need to see?"

Dallas ISD Employees Moved To New Building Due To Lead.

The Dallas Morning News (3/8) reports that several hundred Dallas Independent School District employees are being relocated "after water testing found lead and other problems" at their building. EFI Global senior project manager Kim McGraw "said some samples showed lead and byproducts of disinfectant in the water supply. He also said some of the water samples had cloudiness, which the Environmental Protection Agency would consider higher than normal." KDFW-TV Dallas (3/8, 10:19 p.m. CT) broadcast a brief report.

North Carolina Health Department Lifts Water Advisories On Private Wells Near Duke Energy Ash Ponds.

The Charlotte (NC) Observer (3/8, Henderson) reports the North Carolina Department of Health and Human Services said it was rescinding advisories concerning the safety of drinking well water in Gaston and Rowan counties near Duke Energy's ash ponds. About a year ago, the department issued the advisories and Duke Energy began providing residents affected by the advisories with bottled water, although it claims it is not responsible for the elevated levels of hexavalent chromium and vanadium found in some of the area's private wells.

Salt Lake Tribune Notes Utah Bill On Scientific Review Of Administrative Lawmaking Action.

The Salt Lake (UT) Tribune (3/9) reports on a Utah bill that would make it “the third state,” after Minnesota and California, “to pass legislation on scientific review of administrative lawmaking action.” The Tribune reports that the bill has “drawn criticism from the Environmental Protection Agency, which sent a letter to the state Division of Water Quality warning that the bill could cause the state to violate federal law. Under the Clean Water Act, the EPA could require the state to revise the law or even revoke the state’s authority to manage water quality independently.”

Last Laughs

Late Night Political Humor.

Jimmy Kimmel: “From the popular Donald Trump reality show, Mitt Romney is here with us tonight. You know in the movies when the monster’s rampaging through the city and all hope seems to be lost, and then the government tracks down a scientist who swore he would never come out of retirement and asks him to save us? That’s why Mitt Romney is here tonight. To destroy the Donald on National Pancake Day.”

Jimmy Kimmel: “Today is what CNN is calling Super Tuesday Two. There were primaries and caucuses in four states today: Michigan, Hawaii, Idaho and Mississippi. Donald Trump was in Mississippi yesterday. And I don’t know if he was confused. Maybe he’s forgetting where he is now. He’s been in so many places. But weirdly, he took time out of his speech in Mississippi to talk about the potatoes in Idaho.”

Jimmy Kimmel: [Referring to the various presidential candidates’ campaign stores] “Dr. Ben Carson had some fun items for sale. ... Like this – the Ben Carson scrub top, complete with a name tag that says Ben Carson, pediatric neurosurgeon. It isn’t so much a great way to support Ben Carson as it is a way to impersonate Ben Carson. It’s a way to do illegal surgery under an assumed name.”

Jimmy Kimmel: “Surprisingly, Donald Trump’s shop is slightly more subdued than the other candidates. Other than the fact that he’s offering 17 different kinds of ‘Make America Great Again’ hats. He’s also selling baby onesies. Because you know, babies scream all day, also. So that’s a perfect gift for them.”

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